

REMARKS

Claims 1-6 and 14-22 are currently active.

The Examiner has rejected Claims 1-6 and 8-13 as being obvious over any one of Kacyra, Kozah, Ohishi or 3rdTech. Applicants respectfully traverse this rejection.

Claims 8-13 have been canceled.

Claim 1 has the limitation of "means for determining desired spatial relationships of the structure from the reflectance data". The use of "means plus function" language is defined by 35 U.S.C. 112, paragraph 6 and has been recognized by the Supreme Court of the United States to be that which is described in the specification and equivalents thereto. Essentially, the means language of Claim 1 has the same limitations as Claim 14. The applied art of record, by itself or in combination, does not teach or suggest the limitations of Claim 14. Accordingly, Claim 1 is patentable over the applied art of record because the means plus function language regarding the determining means is not taught or suggested in the applied art of record. Claims 2-6 are dependent to parent Claim 1 and are patentable for the reasons Claim 1 is patentable over the applied art of record.

The Examiner has rejected Claims 1-6 and 8-22 under 35 U.S.C. 112, second paragraph.

The Examiner mentions nothing about Claims 1-6. The specification clearly sets out in great detail the enablement information supporting Claims 1-6, and for that matter, Claims 14-22. One skilled in the art, from reading the specification, would be able to practice the claimed invention without undue experimentation.

Furthermore, Claims 14, 15 and 17 have been amended to obviate any concerns the Examiner has expressed regarding the claims. Antecedent support for the amendments to the claims is found on page 27, lines 12 and 13. The specification provides enablement information, even providing detailed equations that are necessary to accomplish the claimed invention. It is respectfully submitted that the pending claims are clear and definite to one skilled in the art.

In view of the foregoing amendments and remarks, it is respectfully requested that the outstanding rejections and objections to this application be reconsidered and withdrawn, and Claims 1-6 and 8-22, now in this application be allowed.

CERTIFICATE OF MAILING

I hereby certify that the correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on 9/22/04

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Respectfully submitted,

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